RECENT CASES.

APPEAL AND ERROR—DISMISSAL—COSTS.—STATE EX REL TAYLOR V. VANN, 37 S. E. 263 (N. C.).—*Held*, where, pending appeal from a judgment in favor of plaintiff in an action to recover an office, the term of office expired, rendering futile any further judgment, the appellate court will not determine the merits of the case merely to decide the costs of appeal, and will dismiss the appeal but will not dismiss the action.

The dismissal of the appeal is in accord with *Herring* v. *Pugh*, 125 N. C. 437, 34 S. E. 538, and *Commissioners* v. *Gill*, 126 N. C. 86, 35 S. E. 228, which declare that the Court will not determine the merits of a case simply to decide who must bear the costs. But the Court goes further and refuses to dismiss the action on the ground that the plaintiff had a just and lawful cause of action under the doctrine of *Hoke* v. *Henderson*, 4 Dev. 1, 15 N. C. 1, which holds an office to be private property. This is opposed to the doctrine of *Taylor* v. *Beckham*, 178 U. S. 576, 20 Sup. Ct. 900, 44 L. Ed., and of practically all the other States, which hold that office is an agency or trust.

CONSTITUTIONAL LAW—SPECIAL LEGISLATION—TREATMENT OF INEBRIATES. —MURRY V. BOARD OF COMMISSIONERS OF RAMSEY COUNTY, 84 N. W. 103 (Minn.).—An act provided that each county of 50,000 or more inhabitants should provide and maintain a private institution in which inebriates might be treated, reformed and cured. Commitment therein was by personal application, or that of some friend or kin, and the number was limited to one from each 10,000 of the county. *Held*, unconstitutional.

A similar act applying to the whole State was held invalid because it attempted to give more than constitutional powers to probate judges. *Foreman* v. *Commissioners*, 67 N. W. 207. The statute under consideration was designed to meet this objection, but it was held unconstitutional as being class legislation, for sectional acts, to be valid, must rest on some peculiarity plainly distinguishing the places included from those excluded. The Court held that the assumed difference between urban and rural drunkenness was not such a distinguishing characteristic. *State* v. *Cooley*, 58 N. W. 150; *State* v. *Ritt*, 79 N. W. 535. The statute at bar occasioned a great deal of adverse press comment through the West, and was popularly dubbed "The Minnesota jag law."

CONTRACTS—AGREEMENT TO RE-DELIVER NOTE—ACTION FOR BREACH.— LYLE V. MCCORMICK HARVESTING MACHINE CO., 84 N. W. 18 (Wis.).—Plaintiff, the maker of a note, gave the same to defendant, the payee, under an agreement that it was to be returned on the happening of a certain contingency. Before the event specified, the defendant transferred the note to a third party, who was unable to collect it on execution, as plaintiff had meanwhile become insolvent. Nevertheless, *held*, that the defendant was liable for conversion.

An interesting and somewhat novel defense was set up, *viz:* that the contract was in the nature of an indemnity and that therefore the defendant was